



CrI.MP.No.17487 of 2023
in CrI.A.No.1071 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.MP.No.17487 of 2023
in CrI.A.No.1071 of 2022

Yesudoss @ Yesukumar

...Petitioner/2nd Accused

Vs.

The State represented by
The Inspector of Police,
M-3, Kovilpalayam Police Station,
Coimbatore
(Crime No.328 of 2017)

... Respondent

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Judge for Bomb Blast Cases, Coimbatore in S.C.No.244 of 2018 dated 04.08.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.C.Prabakaran
For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.C.Aravind

ORDER



Crl.MP.No.17487 of 2023
in Crl.A.No.1071 of 2022

WEB COPY

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/A2, by the learned Special Judge for Bomb Blast Cases, Coimbatore in S.C.No.244 of 2018 dated 04.08.2022 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned Special Judge for Bomb Blast Cases, Coimbatore in S.C.No.244 of 2018, convicted the petitioner herein/A2 and sentenced him as follows:

Accused (A1)	Offence	Sentence Imposed
	302 IPC	To undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one year rigorous imprisonment.

3.Challenging the above conviction and sentence, the petitioner/A2, has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4.Heard Mr.C.Prabakaran, learned Counsel appearing for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor, appearing for the



Crl.MP.No.17487 of 2023
in Crl.A.No.1071 of 2022

respondent/State.

WEB COPY

5. Totally there are two accused and the petitioner is A.2. The case of the prosecution is that the deceased Palanisamy and the accused were neighbours; the accused were having a pig farm and pork outlet near the house of Palanisamy; Palanisamy was constructing a house nearby and there used to be frequent quarrels between the two families for free access to the place of construction; while that being so, it is alleged that on 12.11.2017, an altercation ensued between Palanisamy and the accused, pursuant to which, it is alleged that the accused attacked Palanisamy fatally.

6. The learned counsel for the petitioner submitted that A.1 was earlier granted bail by this Court on 14.10.2022 in Crl.M.P.No.14407 of 2022 on the ground that he was 80 years old and was taking treatment in the prison hospital and the petition was dismissed as withdrawn as against A.2/the petitioner herein. He further submits that in view of the change of circumstances and considering the fact that the petitioner is in custody from 04.08.2022, the petitioner's request for bail may be considered. Learned counsel for the petitioner also submits that the deceased in the instant case was the aggressor and the overtact is attributed only against A.1, the father of the petitioner herein.



CrI.MP.No.17487 of 2023
in CrI.A.No.1071 of 2022

WEB COPY

7. Per contra, learned Additional Public Prosecutor submits that the trial Court had rightly convicted the petitioner for the offence punishable under Section 302 IPC and the petitioner is not entitled for suspension of sentence.

8. We have carefully analysed the rival submissions and perused the records. The prosecution case is that there were frequent quarrels between the petitioner, his father on the one hand and deceased and his family members on the other. On the date of occurrence i.e., on 12.11.2017, the deceased attempted to attack the petitioner with brick and the petitioner/A.2 is said to have beaten the deceased by using spanner.

9. Considering the facts and circumstances of the case and also considering the fact that the major overt act is attributed as against A.1/father of the petitioner herein and also taking note of the fact that the petitioner is in custody from 04.08.2022 and since the present appeal is not likely to be taken up for hearing in the near future, we are inclined to suspend the sentence on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-



WEB COPY



Crl.MP.No.17487 of 2023
in Crl.A.No.1071 of 2022

(Rupees twenty five thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Coimbatore.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

(M.S.R., J.) (S.M., J.)
29.01.2024

SR

Note: Issue Order Copy on 30.01.2024.

Internet : Yes

Index : Yes / No

To

1. The Judicial Magistrate No.II, Coimbatore



CrI.MP.No.17487 of 2023
in CrI.A.No.1071 of 2022

2.The Inspector of Police,
M-3, Kovilpalayam Police Station,
Coimbatore

3.The Superintendent,
Central Prison, Coimbatore

4.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.MP.No.17487 of 2023
in Crl.A.No.1071 of 2022

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

SR

Crl.MP.No.17487 of 2023
in Crl.A.No.1071 of 2022

Dated: 29.01.2024